



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

February 25, 2003

Fax Number 303-837-5837

INFORMATION REQUEST
URGENT LEGAL MATTER - PROMPT REPLY REQUESTED

Britt D. Banks, Vice President, General Counsel and Secretary
Newmont Mining Corporation
1700 Lincoln Street
Denver, CO 80203

SUBJ: Grey Eagle Mine Superfund Site, Siskyou County, California

Dear Mr. Banks

Thank you for your timely response to the information request issued to Newmont Mining on September 3, 2002, in regards to the Grey Eagle Mine Site referenced above. At this time the Environmental Protection Agency ("EPA") is requesting additional information to clarify your previous responses pursuant to CERCLA Section 104(e), 42 U.S.C.A. § 9604(e). Responses to the attached questions are due within 20 days of receipt of this request letter.

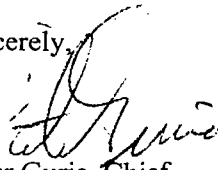
Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within twenty (20) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA. Each of these statutes permits EPA to seek the imposition of penalties of up to twenty-seven thousand five hundred dollars (\$27,500) for each day of continued noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject Newmont to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA, 42 U.S.C. § 6928(d).

Your response to this Information Request on behalf of Newmont should be mailed to:

Thanne Cox
U.S. Environmental Protection Agency Region 9
Mail Code ORC-3
75 Hawthorne Street
San Francisco, California 94105

If you have any questions, contact Thanne Cox at (415) 972-3908. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Guria", written over a horizontal line.

Peter Guria, Chief
Emergency Response Office

cc: John Jaros, EPA
Thanne Cox, EPA

Scott Hardt
Temkin, Wielga & Hardt LLP
1900 Wazee Street, Suite 303
Denver, CO 80202

Newmont Mining Corporation

INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Information Request indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in statutes and regulation set forth above. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure A:

1. The term "you" or "Respondent" shall mean Newmont Mining Corporation or its authorized representative(s).
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean the Grey Eagle Mine Site located 5 miles north of Happy Camp, Siskiyou County, California.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
7. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its

business.

12. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

13. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

14. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

15. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

16. The term "arrangement" means every separate contract or other agreement between two or more persons.

17. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

18. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

19. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the

statutory or regulatory definitions shall apply.

20. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

21. The term "asset" shall include the following: real estate, buildings or other improvements of real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.

Questions

1. Identify the person(s) answering these Questions on behalf of Respondent.
2. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.
3. For each and every Question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide true and accurate copies of all such documents.
4. Was G.A. Kervin an employee of Grey Eagle Copper Company ("GECC")? Did GECC ever pay Mr. Kervin before his death in 1942? If so, provide documentation and/or describe the terms of his employment with GECC including his salary amount, position, copies of employment contracts, pay stubs, etc. Provide the basis of your answer.
5. Was G.A. Kervin an employee of Newmont Mining Corporation ("Newmont")? If so, during what years was Mr. Kervin a Newmont employee? What function and/or services did Kervin provide for Newmont?
6. Did Newmont pay Mr. Kervin's salary during 1941? If so, provide documentation and/or describe the terms of his employment with Newmont including his salary amount, position, copies of employment contracts, pay stubs, etc. for this year. Who directed Kervin's scope of employment?
7. Did Newmont, or an employee or officer of Newmont, request that Kervin develop a cost estimate of developing and equipping the Grey Eagle Mine? Did Newmont pay for these services?
8. Did Kervin provide similar services for other mining operations owned and/or operated by Newmont or any of its subsidiaries?
9. Name all officers of the GECC from 1940 through 1946? Provide their titles and duration of holding each office.
10. Did Carroll Searls ever hold an office or position within the GECC? If so, what was this position? If so, what was Mr. Searls' salary and terms of employment within GECC? Provide the basis of your answer.
11. Provide any payrolls, audits or accounting documents for GECC.
12. Barrow, Wade, Guthrie & Company audited the payrolls for GECC. Did Newmont pay for these auditing services? Did GECC pay for these services? Provide the basis of your answer.

13. Did Newmont use Barrow, Wade, Guthrie and Company for auditing purposes at any other Newmont owned and/or operated mining facility? If so, who paid for these services? If so, which properties did this accounting firm visit and audit?

14. Did Newmont use Barrow, Wade, Guthrie & Company for accounting and auditing purposes? If so, for what years did Newmont use this firm?

15. Did Newmont ever use outside counsel during the years of 1940 through 1945? If so, did Newmont use the lawfirm of Covington, Burling, Rublee, Acheson & Shorb? If so, for what matters did Newmont request this lawfirm's advice and representation? Did Newmont routinely use this lawfirm? Was there a particular attorney with whom Newmont regularly sought outside advice?

16. Did GECC ever pay for any services provided by the lawfirm of Covington, Burling, Rublee, Acheson & Shorb or any of its attorneys? If so, provide the basis of this answer.

17. Explain the accounting system for GECC? Did GECC maintain a checking account? Where was this account maintained? When was this account opened? Who was authorized to sign checks for GECC? Were employees at the facility paid out of this account? Were officers paid out of this account? Were on site management paid out of this account? Provide the basis for your answers.

18. What was the basis of the claim filed by A.J. McNab against the Grey Eagle Copper Company? The final decree regarding this matter was dated September 13, 1947 in the Superior Court of Equity, in the State of Maine.

19. Provide any minutes of meetings held by the Grey Eagle Copper Company. Provide any annual reports or status reports prepared by Grey Eagle Copper Company.

20. In order to get the mining facility operational, Newmont injected \$1 million into its development. How was this transfer of funds handled? On what date did this transfer occur? Provide all documentation related to the transfer of funds and the terms of the arrangement.

*** TX REPORT ***

TRANSMISSION OK

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U.S. ENVIRONMENTAL PROTECTION AGENCY

Office of Regional Counsel

Region IX

75 Hawthorne Street

San Francisco, CA 94105

Phone Number (415) 947-8705

Fax Number (415) 947-3570, 947-3571

PLEASE DELIVER TO:

NAME Brett Banks
FAX # 803 - 837-5837
PHONE # _____
OFFICE Newmont Mining

NAME _____
FAX # _____
PHONE # _____
OFFICE _____

NAME _____
FAX # _____
PHONE # _____
OFFICE _____

FROM:

NAME Thane Cox
PHONE # 415 972 5708
DATE 2-28-03

This transmission consists of 8 page(s) including this cover page.



U.S. ENVIRONMENTAL PROTECTION AGENCY

Office of Regional Counsel

Region IX

75 Hawthorne Street

San Francisco, CA 94105

Phone Number (415) 947-8705

Fax Number (415) 947-3570, 947-3571

PLEASE DELIVER TO:

NAME Bitt Banks
FAX # 803 - 837 5837
PHONE # _____
OFFICE Newmont Mining

NAME _____
FAX # _____
PHONE # _____
OFFICE _____

NAME _____
FAX # _____
PHONE # _____
OFFICE _____

FROM:

NAME Thane Cox
PHONE # 415 972 3508
DATE 2-28-03

This transmission consists of 8 page(s) including this cover page.

ADDITIONAL MESSAGE: _____

The information contained in this communication is intended only for the use of the addressee and may be confidential, may be attorney-client privileged and may constitute inside information. Unauthorized use, disclosure or copying is strictly prohibited and may be unlawful. If you have received this communication in error, please contact us at (415) 947-8705.

TEMKIN WIELGA & HARDT LLP

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Denver, Colorado 80202

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hardt@twhlaw.com

Phone: (303) 292-4922
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March 3, 2003

Ms. Thanne Cox
U.S. Environmental Protection Agency
Region 9
Mail Code ORC-3
75 Hawthorn Street
San Francisco, CA 94105

Re: Grey Eagle Mine 104(e) request

Dear Ms. Cox:

I am writing to confirm your message of today agreeing to allow Newmont USA Limited d/b/a Newmont Mining Corporation until April 18, 2003, to respond to the EPA's 104(e) request relating to the Grey Eagle Mine, dated February 25, 2003.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Scott W. Hardt', with a large, stylized 'S' and 'H'.

Scott W. Hardt

SWH:lb

cc: Britt D. Banks, Esq.